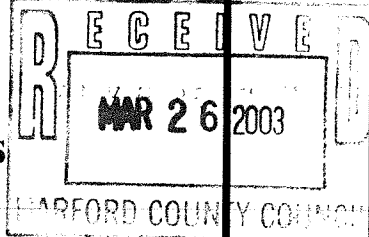


## STANDARD APPLICATION

# Harford County Board of Appeals

Bel Air, Maryland 21014



Case No. 5339  
 Date Filed 3-21-03  
 Hearing Date \_\_\_\_\_  
 Receipt \_\_\_\_\_  
 Fee \$450-

Shaded Areas for Office Use Only

## Type of Application

- ☐ Administrative Decision/Interpretation  
☐ Special Exception  
☐ Use Variance  
☐ Change/Extension of Non-Conforming Use  
☐ Minor Area Variance  
☐ Area Variance  
☒ Variance from Requirements of the Code  
☐ Zoning Map/Drafting Correction

Nature of Request and Section(s) of Code \_\_\_\_\_

CASE 5339 MAP 41 TYPE Variance

ELECTION DISTRICT 3 LOCATION 1003 Goosecross Court, Bel Air, Md. 21014

BY Thomas and Coni Murphy

Appealed because a variance pursuant to Section 267-30.14 and 267-26C(6) of the Harford County Code to permit an accessory structure within the recorded Forest Retention Area in a R2 District requires approval by the Board.

**NOTE:** A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

## Applicant/Owner (please print or type)

Name Thomas Murphy Phone Number 410-879-6366

Address 1003 Goosecross Court Bel Air Maryland 21014  
Street Number Street City State Zip Code

Co-Applicant Coni Murphy Phone Number 410-879-6366

Address 1003 Goosecross Court Bel Air Maryland 21014  
Street Number Street City State Zip Code

Contract Purchaser N/A Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
Street Number Street City State Zip Code

Attorney/Representative Robert S. Lynch  
Stark and Keenan, P.A. Phone Number 410-879-2222

Address 30 Office Street Bel Air Maryland 21014  
Street Number Street City State Zip Code

Hearing: 6/11/03

## Land Description

Address and Location of Property 1003 Goosecross Court, Bel Air, Maryland 21014

Vineyard Oak Subdivision

Subdivision Vineyard Oak

Lot Number #87

Acreage/Lot Size .318

Election District Third

Zoning R1/Urban Residential District

Tax Map No. 0041

Grid No. 0002C

Parcel 0663

Water/Sewer: Private \_\_\_\_\_ Public XX

List ALL structures on property and current use: House, deck, patio

Estimated time required to present case: 30 minutes

If this Appeal is in reference to a Building Permit, state number No

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes \_\_\_\_\_ No XX

If so, what is the Critical Area Land Use designations: N/A

Is this request the result of a zoning enforcement investigation? Yes \_\_\_\_\_ No XX

Is this request within one (1) mile of any incorporated town limits? Yes XX No \_\_\_\_\_

## Request

See attached.

## Justification

See attached.

*If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)*

**HARFORD COUNTY BOARD OF APPEALS APPLICATION**  
**THOMAS AND CONI MURPHY**

**REQUEST**

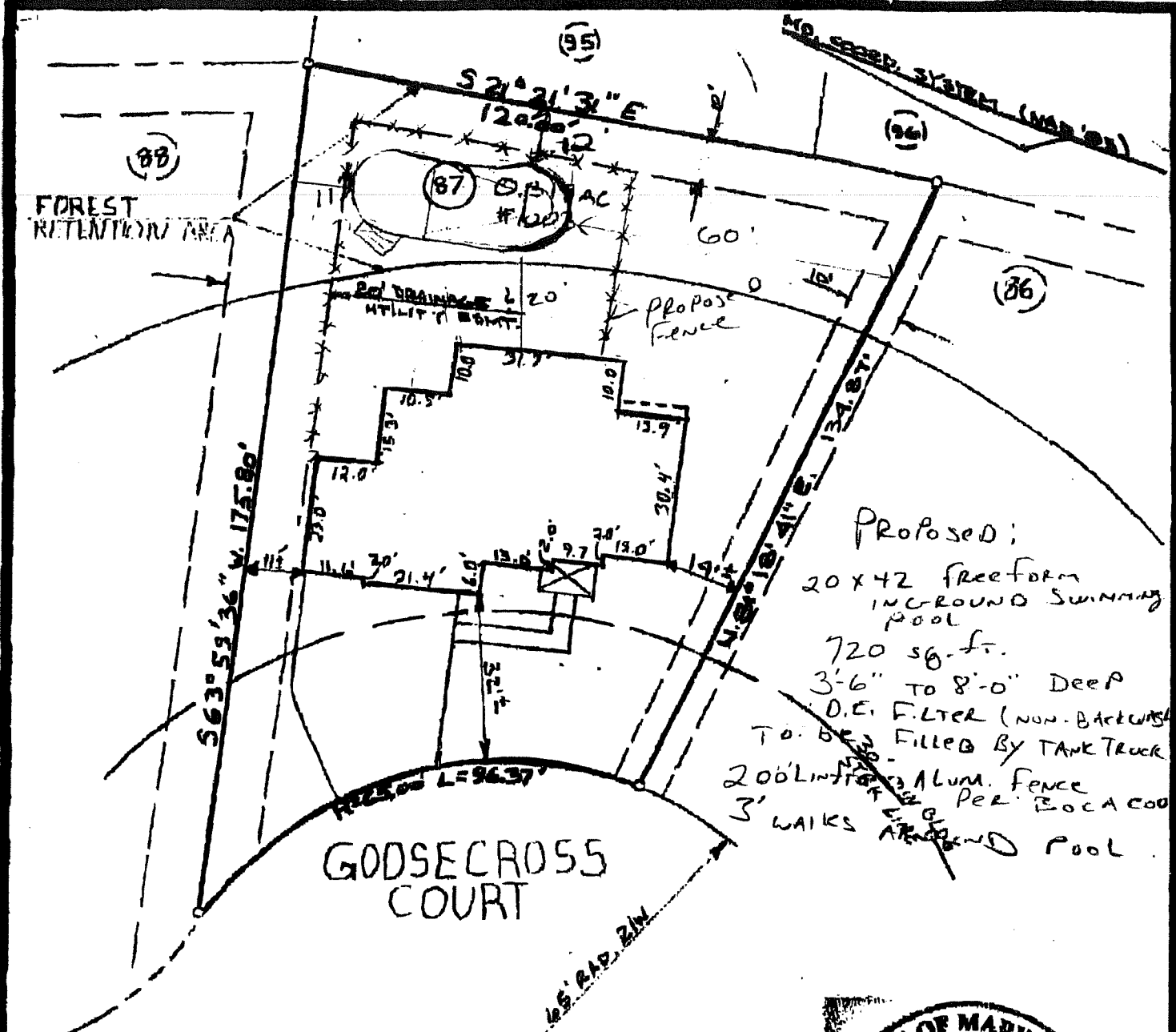
The Applicants, Thomas and Coni Murphy, hereby request a variance pursuant to Sections 267-30.14 and 267-26(C)(6) of the Harford County Code, to permit an accessory structure within the recorded Forest Retention Area in an R1/Urban Residential District.

**JUSTIFICATION**

The subject property is improved by a single family home. The property is situated in the Vineyard Oak Subdivision. A review of Exhibit A (attached hereto) demonstrates that the majority of the Applicants' rear yard is encumbered by a recorded Forest Retention Area. A field examination of the property reveals that there are absolutely no mature trees existing within this recorded area. However, even without mature trees present, the recorded Forest Retention Area severely limits the Applicants' ability to utilize their rear yard.

The Applicants seek a variance from the Forest Retention Area to allow for the construction of an in-ground swimming pool, as illustrated on Exhibit A. The Applicants are agreeable to planting new trees in an area of their rear yard equal to the area encumbered by the proposed pool.

By reason of the uniqueness of their property and its topographical conditions, the literal enforcement of the Code will result in practical difficulty and unreasonable hardship. The granting of the variance will not be substantially detrimental to adjacent properties, nor will the granting of the variance materially impair the purpose of the Code or the public interest.



**NOTE:**  
 I HEREBY CERTIFY THAT THE LAND SHOWN  
 HEREON IS NOT WITHIN THE FLOOD ZONES  
 SHOWN ON THE FLOOD INSURANCE  
 RATE MAPS AS PUBLISHED MARCH 2, 1983

\* SEE REVERSE FOR ADDITIONAL NOTES

	<b>MORRIS &amp; RITCHIE ASSOCIATES, INC.</b> ENGINEERS, PLANNERS, SURVEYORS, AND LANDSCAPE ARCHITECTS 138 N. Main Street, Suite 200 Bel Air, Maryland 21014 (410) 878-1890 - (410) 836-7880 Fax: (410) 878-1820		LOCATION DRAWING LOT 87 FINAL PLAT TWO, PHASE III VINEYARD OAK LGH 87, FOLIO 79 THIRD ELECTION DISTRICT HARBOR COUNTY, MD FOR BYLAND HOMES		
	SCALE: 1"=30'	DATE: 8-26-98	DRAWN BY: BJV	DESIGN BY:	REVIEW BY: CR

CAD ONE, INC. 301-595-1120

BK #11 Pg #42

JAMES M. HARKINS  
HARFORD COUNTY EXECUTIVE

JOHN J. O'NEILL, JR.  
DIRECTOR OF ADMINISTRATION



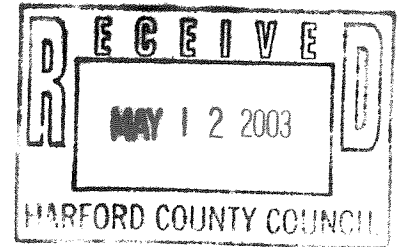
J. STEVEN KALL-ZIEGLER  
ACTING DIRECTOR OF PLANNING & ZONING

## HARFORD COUNTY GOVERNMENT

### Department of Planning and Zoning

May 12, 2003

#### STAFF REPORT



#### **BOARD OF APPEALS CASE NO. 5339**

APPLICANT/OWNER: Thomas Murphy  
1003 Goosecross Court, Bel Air, Maryland 21014

Co-APPLICANT: Coni Murphy  
1003 Goosecross Court, Bel Air, Maryland 21014

REPRESENTATIVE: Robert S. Lynch  
Stark and Keenan, P.A.  
30 Office Street Bel Air, Maryland 21014

LOCATION: 1003 Goosecross Court – Vineyard Oak  
Tax Map: 41 / Grid: 2C / Parcel: 663 / Lot: 87  
Election District: Third (3)

ACREAGE: 0.318 acres

ZONING: R1/Urban Residential District

DATE FILED: March 21, 2003

HEARING DATE: May 28, 2003

#### **APPLICANT'S REQUEST and JUSTIFICATION:**

See ATTACHMENT 1.

*Preserving our values, protecting our future*

MY DIRECT PHONE NUMBER (410) 638-3103  
220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 410-638-3000 • 410-879-2000 • TTY 410-638-3086 • [www.co.ha.md.us](http://www.co.ha.md.us)

***This document is available in alternative format upon request.***

## STAFF REPORT

Board of Appeals Case Number 5339

Thomas and Coni Murphy

Page 2 of 4

### **CODE REQUIREMENTS:**

The Applicant is requesting a variance pursuant to Sections 267-30.14 and 267-26C(6) of the Harford County Code to permit an accessory structure within the recorded Forest Retention Area in an R1/Urban Residential District.

Section 267-26C(6) of the Harford County Code reads:

- (6) *No accessory use or structure, except fences, shall be located within any recorded easement area.*

Section 267-30.14 of the Harford County Code reads:

#### ***Variances.***

- A. *The Board of Appeals may grant a variance to this Article in accordance with this section and Section 267-11 of this chapter.*
- B. *In granting a variance to this Article the Board shall issue specific written findings of fact demonstrating that the granting of the variance will not adversely affect water quality.*

### **LAND USE and ZONING ANALYSIS:**

#### **Land Use – Master Plan:**

The Applicant's property is located to the west side of Fountain Green Road (Md. 543) in the development of Vineyard Oaks. The lot is located at the end of Goosecross Court. A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The subject property is located within the Development Envelope. The predominant land use designations are Low and Medium Intensity. Other land use designations in the area include Industrial/Employment. The Natural Features map reflects stream buffers. The subject property is located in the Medium Intensity designation, which is defined by the 1996 Land Use Plan as:

**Medium Intensity** - Areas within the Development Envelope where residential development is the primary land use. Density ranges from 3.5 to 7.0 dwelling units per acre. Grocery stores, and other commercial uses are examples of some of the more intensive uses associated with this designation.

Enclosed with the report are copies of portions of the 1996 Land Use Map and the Natural Features Map (Attachments 4 and 5).

#### **Land Use – Existing:**

## STAFF REPORT

Board of Appeals Case Number 5339

Thomas and Coni Murphy

Page 3 of 4

The existing land uses in this area of the County are consistent with the 1996 Land Use Plan. Residential uses include single-family dwellings and townhouses. Other land uses include C. Milton Wright High School and churches. Commercial uses are located along US Route 1 to the north and Route 22 to the south. Enclosed with the report is a copy of the aerial photograph (Attachment 6).

The subject property is located on the east side of Goosecross Court, at the end of the cul-de-sac. The lot is improved with a two-story dwelling with an attached three car-garage. Other improvements include a wide concrete driveway, a deck attached to the rear of the dwelling (off of the second level of the house). Located in the rear yard are several large mature trees. Enclosed with the report are site photographs (Attachment 7).

### Zoning:

The existing zoning conforms to the intent of the 1996 Master Plan as well as the existing land uses. Residential zoning in the area ranges from R1/to R3/Urban Residential Districts. There are also a few areas of AG/Agriculture. The subject property is zoned R1/Urban Residential District and was developed utilizing the COS/Conventional with Open Space and NRD development adjustment standards. Enclosed with the report is a copy of the zoning map (Attachment 8).

### **SUMMARY:**

The Applicant is requesting a variance pursuant to Sections 267-30.14 and 267-26C(6) of the Harford County Code to permit an accessory structure within the recorded Forest Retention Area in an R1/Urban Residential District.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the Applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

### Section 267-26C(6):

- (6) *No accessory use or structure, except fences, shall be located within any recorded easement area.*

All of the lots around Goosecross Court, as well as other lots in this development are subject to a Forest Retention Easement (Attachment 9). The Applicant's lot has less easement area located on the property than most of the lots on this street.

STAFF REPORT

Board of Appeals Case Number 5339

Thomas and Coni Murphy

Page 4 of 4

According to the 1990 aerial photograph (Attachment 10), the entire area was densely wooded. During the construction of the development, the forested areas that were to be preserved were marked. The trees within this easement area should have been retained. It is not clear when the trees were removed, however, the Forest Retention Easement is a protected area and the removal of the forest that existed is a violation of the Code. The forest needs to be re-established in this area.

Section 267-30.14:

*A. The Board of Appeals may grant a variance to this Article in accordance with this section and Section 267-11 of this chapter.*

This subdivision was developed subject to the Forest Conservation Regulations of the Harford County Code. There are numerous lots in this subdivision, as well as other developments throughout the County which are subject to Forest Retention Easements. The Forest Retention area affects only a small area of this lot compared to other lots in this development. This development contains large homes, which limits the area available for accessory structures. This was a decision of the developer and the purchaser of these lots. The Applicants were able to construct a large deck on the rear of their dwelling.

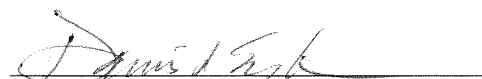
The subject lot is not unique. The Forest Retention area was clearly shown on the plats for these lots. The fact that some of the forest has been cleared in violation of the Code is not adequate justification for a variance.

*B. In granting a variance to this Article the Board shall issue specific written findings of fact demonstrating that the granting of the variance will not adversely affect water quality.*

The re-establishment of forest in this area will provide better water quality from run off than the proposed pool.

**RECOMMENDATION and or SUGGESTED CONDITIONS:**

The Department of Planning and Zoning recommends that the request be denied.



Dennis J. Sigler, Coordinator  
Zoning & Board of Appeals Review



Anthony S. McClune, AICP  
Chief, Current Planning Division

DJS/ASM/dm